IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 6281 OF 2005

Shri. T.R. Selverajan ...Applicant

Versus

The State of Maharashtra & Anr ...Respondents

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Mr. C.K. Pendse, Advocate for Applicant.

Mr. S.R. Shinde, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 3RD OCTOBER, 2005

P. C.:-

1. Leave to amend. Amendment to be carried out forthwith.

2. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

3. The applicant has prayed for quashing of proceedings relating to Criminal Case No.1218 of 2004 which is pending in the Court of learned Judicial Magistrate V (F.C.), Thane. In the said case, process has been issued against the applicant under Section 138 of Negotiable Instruments Act. The learned advocate for the applicant submitted that the learned Magistrate committed an error in issuing

process and the said process deserves to be set aside. It is further submitted that if the process issued against the applicant is set aside, the proceedings in respect of the applicant would come to an end.

4. For the reasons recorded in the decision of this Court in the case of **V.K. Jain & Ors. Vs. Pratap Vs. Padode and Anr, reported in 2005(3) Mh.L.J. 778,** in my opinion, the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicant prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

5. Liberty is granted to the applicant to prefer revision before the concerned Sessions Court. The learned advocate for the applicant states that the necessary revision would be preferred within a period of four weeks from today. I am informed that the date before the trial is on 10.10.2005. In view of this statement, the trial Court shall not proceed with the trial on 10.10.2005 and for a period of three weeks thereafter.

6. It is also prayed that the learned Magistrate has issued non bailable warrant against the applicants

and the said N.B.W. be quashed. I am not inclined to quash the N.B.W. as in my view, it would be appropriate that the applicants prefer an application before the Magistrate for setting aside the said N.B.W. In order to enable the applicants to take necessary steps for setting aside the N.B.W. before the Magistrate, the said N.B.W. are stayed for a period of six weeks from today.

7. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

8. Application is disposed of.

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